

01
POLICY
NUMBER

SEXUAL HARASSMENT POLICY



SEXUAL HARASSMENT

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Document Control

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Sexual Harassment

Outline the company approach and overall strategic or business context for the Sexual Harassment policy

What will the company be accountable for in relation to this policy?

1. Approvals and Revisions

Who will this policy require approvals by?
How often will revisions be sought?

This policy has been created in reference to the following:

Internal Policies and Procedures

List any here:

External Laws, Policies and Procedures

List any here:

Professional bodies best practices or guidelines

List any here:

The Company reserves the right to amend or modify this policy at its sole discretion, in accordance with the requirements of any applicable law, or for any other lawful reason.

2. Objective

Detail what the objectives of the Sexual Harassment policy will be.

How will you achieve those objectives:

- A
- B
- C
- D

3. Application and Responsibilities

Who does this policy apply to and who has responsibilities for the application of this policy?

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Each employee has the responsibility to:

- A
- B
- C

Management has the responsibility to:

- A
- B
- C

The Human Resources Function has the responsibility to:

- A
- B
- C

4. Definitions

Some sample definitions: - please remove or add as required:

Aggrieved: feeling resentment at having been unfairly treated.

Complaint: a statement, oral or written, that a situation or action is unsatisfactory or unacceptable.

Impartial: favouring neither the accused nor the complainant; treating each person fairly; unbiased.

Misconduct: unacceptable, unreasonable, or improper behaviour by an employer, worker or customer /client in the workplace.

Perpetrator: any person who commits or colludes in an act of sexual harassment in the workplace including any other person interacted with in connection with performance of work duties.

Sexual Harassment: is any physical, verbal or non-verbal conduct of a sexual nature and other conduct affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and a person's rejection of, or submission to, such conduct is used to explicitly or implicitly as a basis for a decision which affects that person's job; or (hostile work environment) conduct that creates an intimidating, hostile or humiliating working environment for the recipient.

It can include touching, remarks, looks, attitudes, jokes or the use of sexually oriented language, allusions to a person's private life, references to sexual orientation, innuendos with a sexual connotation or remarks about dress or figure or the persistent leering at a person or part of his/her body.

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Sexual harassment includes incidents among employees involving unwelcome advances, requests for sexual favours or other physical, verbal, or visual conduct of a sexual nature where such conduct is intended to:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individuals; to influence an employment decision such as, promotion, salary increases, job security or overtime assignments.
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Other conduct, which may constitute sexual harassment, may include but is not limited to the following:

Verbal: Sexual innuendos, suggestive comments, insults, humour, and jokes about sex, anatomy or gender-specific traits, sexual propositions, threats, repeated requests for dates, or statements about other employees, even outside of their presence, of a sexual nature.

Non-Verbal: Suggestive or insulting sounds (whistling/sooting), leering, obscene gestures, sexually suggestive bodily gestures, "catcalls", "smacking" or "kissing" noises.

Visual/written or graphic: Letters, posters, signs, pin-ups or slogans of a sexual nature, viewing pornographic material or websites.

Physical: Touching, unwelcome hugging or kissing, pinching, brushing the body, stalking, any coerced sexual act, or actual assault.

Psychological: repeated unwanted proposals, stalking

Textual/Electronic: "Sexting" (electronically sending messages with sexual content, including pictures, emojis and video), the use of sexually explicit language, harassment, cyber stalking and threats via all forms of electronic communication (e-mail, text/picture/video messages, intranet/on-line postings, blogs, instant messages and social network websites like Facebook and Twitter).

Victim: a recipient of unwanted, objectionable advances of a sexual nature, including employers, workers and third parties.

5. Purpose and Process for Performance Management Policy

(a) Defining what constitutes sexual harassment

5.1 The Sexual harassment is a form of misconduct that undermines the basic integrity of the employment relationship. No employee, whether male or female, and regardless of the location for example, work location, Company sponsored events,

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conferences, or business trips, should be subjected to unsolicited and unwelcomed sexual overtures or conduct, either verbal or physical. Such misconduct shall not be tolerated by the Company and shall be subject to immediate disciplinary action up to and including dismissal.

5.2 The determination as to whether or not behaviour can constitute sexual harassment must take into account the entire circumstance inclusive of the nature of the behaviour and the context in which it occurred. Sexually harassing conduct often involves a pattern of offensive behaviour, however a single instance of physically or verbally threatening or other abusive behaviour may constitute sexual harassment.

5.3 The Company prohibits retaliation against an employee who bring sexual harassment charges/complaint or is assisting in investigating charges. Retaliation is a violation of this policy and shall result in disciplinary action up to and including dismissal. No employee shall be discriminated against or discharged because of bringing or assisting in the investigation of a complaint of sexual harassment.

(b) Understanding behaviour that is not sexual harassment

5.4 Behaviour of a sexual nature that is not sexual harassment may nonetheless be unprofessional in the workplace and likely the unprofessional or disruptive behaviour is unacceptable and shall warrant disciplinary action.

5.5 Occasional compliments that are socially and culturally acceptable and appropriate are generally not considered sexual harassment. Any interaction of a sexual nature which is consensual (except for those prohibited by law), welcomed or reciprocated is not considered sexual harassment.

5.6 However, our social and cultural values, the norms and attitudes of our society coupled with the idiosyncratic way in which people speak or what is considered “picong” creates a degree of subjectivity over what exactly is behaviour that constitutes or does not constitute sexual harassment. The perceptions in different contexts of what constitutes sexual harassment in the workplace are extremely diverse, but the key characteristic of sexual harassment is that it is unwelcomed and/or unwanted by the recipient. The “unwelcomeness” in the act of sexual harassment is a required criterion.

5.7 Legislation in several jurisdictions tend to impose limitations on the kinds of actions that will be considered sexual harassment rather than relying solely on the perception of the claimants. Additionally, one of the most common standards is that the behaviour must be unreasonable. Whether it was “reasonable” for the complainant to believe that he/she was sexually harassed would depend on the context in which the harassment occurred, for example the frequency of the occurrence, the seriousness and extent of the intimidation, the form of its manifestation and whether a hostile and offensive working environment was created for the complainant. The reasonableness of conduct of a person is

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therefore determined by considering whether it was “reasonable” for the complainant to believe that he or she was sexually harassed in the context the harassment occurred. The “unreasonableness” is also determined by considering whether the acts, in a sexual context, were victimizing, humiliating, intimidating or threatening.

(c) Confidentiality, Privacy, and Impartiality

5.8 Commitment to treat all information disclosed in relation to complaints of sexual harassment shall be kept in the strictest confidence to protect the interest of the complainant, the alleged harasser/perpetrator and anyone else who may be involved with the complaint. Information related to the complaint will only be disclosed to the extent necessary to carry out the investigation.

(d) Investigation of complaints

5.9 Any employee who believes that he or she has been the subject of sexual harassment can choose to deal with the matter informally or formally – without prejudice. Informally they can ask the perpetrator to cease and desist and communicate that the behaviour is unwelcome or utilise the HR department to mediate any similar discussion, or formally and shall report the alleged incident immediately, in writing or using Appendix 1 in accordance with the following procedure:

- To Human Resources where the aggrieved employee holds a non-management position
- To Chief Executive where the aggrieved employee holds a management position.
- To the Chairman of the Board of Directors where the aggrieved employee holds an executive position or is the Chief Executive officer.

5.10 The Company shall initiate an investigation of the complaint within three (3) working days. The aggrieved employee shall be requested to complete the sexual harassment complaint/incident form (see Appendix 1) and/or:

- Give a statement about what was said
- Detail the alleged action(s)
- Time(s) and place(s) where any incident(s) were alleged to have occurred and:
- Whether any similar incidents have happened previously
- What behaviour the employee believes to have been inappropriate.

5.11 The alleged harasser/perpetrator will similarly be requested to give a statement. Also, the Company will request the complainant to give the names of any other individuals who they believe, may have knowledge concerning the incident or similar incidents. All witnesses who give statements will be interviewed and all interviews will be prepared for by reviewing the witness statements. The

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Company shall conduct interviews with those individuals for evidence of corroboration and any inconsistencies of the matters described by the complainant. Any employee with knowledge of the allegations will be encouraged to participate fully and truthfully in the investigation.

5.12 Commitment to treat all information disclosed in relation to complaints of sexual harassment shall be kept in the strictest confidence to protect the interest of the complainant, the alleged harasser/perpetrator. The investigation of the complaint shall be conducted by a committee comprising at least two individuals one of which must be a manager. The investigation shall be handled in a professional manner that protects the identity of both the person bringing the charge, potential witnesses, and the alleged harasser.

- A report shall be presented with the following headings:
- Findings - including corroborations and inconsistencies
- Learnings
- Recommendations
- Next Steps

5.13 A letter summarising the findings and recommendations should be provided to both the alleged victim/complainant and the alleged harasser/perpetrator and given during a meeting with the head of HR or the relevant authority.

5.14 If it is determined after the investigation that sexual harassment has in fact taken place, appropriate disciplinary action shall be taken against the person or persons responsible. Depending on the findings of the investigation, the corrective action could range from counselling of the employee to disciplinary action, up to and including termination.

5.15 A summary of any reports of Sexual Harassment Investigations should be shared with the board of Directors within a week of completion of the investigation.

5.16 The Company will not be held liable for any costs incurred by either or any party during the internal investigation.

(e) How to cope and deal with Sexual harassment

5.17 Anyone who is subjected to sexual harassment should immediately object and inform the alleged harasser that his/her conduct is unwelcomed and that he or she should desist. Insist on your personal space and/or physical distance. The following internationally accepted zoning distances are a helpful guide:

- Intimate Zone- This is about 6-18 inches (15-45cm)- Reserved for parents, children, spouses, boyfriend/ girlfriend
- Friend Zone-This is about 18 to 46 inches (45 centimetres to 1.2 metres)

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- Social Zone- This is about 4 to 12 feet (1.2 to 3.5 metres). This zone is reserved for strangers, acquaintances and anyone we interact with that there is no established relationship.
- Audience Zone- This is over 12 feet or (3.5 metres) While companies may have a grievance Policy in place to treat with discipline and misconduct at the workplace, a recipient can adopt the following measures:

Direct approach- Confront the harasser and tell him/her that the behaviour is not appreciated, not welcomed and that it must stop. Stay focused on the behaviour and its impact. Use common courtesy. Write down thoughts before approaching the individual involved.

Indirect approach- Send a letter to the harasser stating the facts, personal feelings about the inappropriate behaviour and expected resolution.

- Keep records of dates, times and locations of all incidences that have occurred.
- Request assistance from another person. Ask someone else to talk to the harasser, to accompany the victim, or to intervene on behalf of the victim to resolve the conflict.
- Report the behaviour to the relevant department.
- All instances of Sexual harassment should be reported.
- Filing a formal complaint- File a formal complaint and/or relevant authorities including the Police where applicable.

6 Policy Communications & Distributions

Annual communications of the policy will be issued from the HR function and any training. The policy will be held on the company shared drive in PDF form.

7 Policy Implementation & Training

In order to ensure successful policy implementation, the Human Resources function will arrange for communications and mandatory training for all supervisors and managers that will cover:

- Overview of the sexual harassment process
- Sexual Harassment guidelines
- Reporting and Coping with Sexual Harassment
- Role playing respectful workplaces
- Use of all forms

8 Procedures

The Human Resource function will also be accountable for all sexual harassment procedure training and ensure that it is embedded in the induction for all supervisor and manager new recruits and promotions and report such in the monthly reports. It

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is also the responsibility of each Department/Function Head to ensure adherence to the policy.

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Appendix 1 Sexual Harassment Complaint Form / Incident Form

Name of complainant _____

Job Title: _____

Department: _____

Supervisor/Manager: _____

Name of Alleged Perpetrator: _____

Organisational Relationship (if any) with Alleged Perpetrator: _____

Date/Time of Incident: _____

Location of Incident: _____

Description of the Incident: _____

Name/s of Witness/es (if any): _____

Have similar incidents occurred in the past? _____

By signing below, I certify that all information provided above is true and correct to the best of my knowledge.

Signature: _____ Date: _____

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Appendix 2 Sexual Harassment Investigation template

Investigation by First Name Last Name – Department

Background

State the context on which the investigation was presented to you. Note the date time, who, how and note any documents and files or evidence you were presented with. Use the **STAR** method if that helps (**S**ituation, **T**ask, **A**ction, **R**esult).

Situation

For example: *On the afternoon of Monday 3rd March Ms. Otterly and Mr Deokie presented me with the following documentation:*

- a) *Written statement from night duty shift manager (insert name)*
- b) *Copy of written statement from Field engineer (insert name)*
- c) *Original written statement from Production chemist (insert name)*

Task

Mr Otterly asked if I would investigate and provide feedback/guidance on the matter as soon as I could.

Action

I reviewed all statements, made notes and asked for all originals. I then proceeded to arrange meetings with all parties to review statements and my questions regarding the statements. I ensured that all of these meetings had a 2nd HR representative present.

(Remember to communicate the request in writing and use the same wording for each party – treating all with respect, fairness and equality.)

I proceeded to try and gather as much evidence as possible and also asked from statements to be provided by Mr Otterly and Mr Dookie as they have all had involvement in the matter to date prior to my engagement.

Result

Detail the overview of the complaint and then set out the methodology of your investigation and how it aligns to your company values.

The complaint is that of a repeated sexually suggestive conversations in the food shack and sexually suggestive messages sent in 'whats app' on company phones between two employees – one a senior manager over a period of six weeks.

Investigation (Methodology)

Definitions:

Sexual Harassment: (quid pro quo) any physical, verbal or non-verbal conduct of a sexual nature and other conduct affecting the dignity of women and men, which is unwelcome, unreasonable, and offensive to the recipient; and where a person's rejection of, or submission to, such conduct is used explicitly or implicitly as a basis for a decision which affects that person's job; or (hostile work

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environment) conduct that creates an intimidating, hostile or humiliating working environment for the recipient¹.

The law of sexual harassment is in a state of rapid change. In many countries there is still no law on sexual harassment as a legally distinct and prohibited activity – including in Trinidad. Equal opportunity, labour, tort and criminal laws may all be applied separately or in combination to deal with this behavior.

The [national workplace policy on sexual harassment](#) in Trinidad and Tobago addresses and outlines the procedure to follow for employers and with that regard take all allegations of sexual harassment seriously.

At [Insert Company name] we are clear that there is a zero tolerance policy on Sexual harassment and that we will create a workplace where issues of sexual harassment are prohibited, prevented, addressed and remedied expeditiously and with equity, accountability and integrity. [Insert link to company policy or insert as an appendix]. As part of this investigation we shall conclude a review of our policy to ensure any learnings are applied **OR** following on from this investigation we shall complete a Sexual Harassment Policy as a matter of priority to ensure all learnings are captured.

Interviews:

Keep detailed documentation of all dates and times of interviews and Interview requests (including the additional HR representative), see attached Appendix 1 for the copy of the request sent to all parties.

Monday 17th March 2020

Interviewed:

- a) night duty shift manager (insert name)
- b) Field engineer (insert name)
- c) Production chemist (insert name)
- d) Mr Otterly (National Operations Manager)

Mr Deokie (Americas Production Manager) – could not attend the interview due to a production emergency at the Pt Lisas site, rescheduled to the following day.

It is also essential to document all interview notes, See Appendix 2 for the interview checklist.

All interviews began with an introduction of who I was, what I do and how I will be investigating the matter and how confidentiality will shall proceed. I Prepared interview questions by reviewing statements to verify, question or confirm information. All notes are attached

Findings:

The investigation is to ascertain whether it was more than likely that the incident occurred. It was not to cast judgment or prove guilt or innocence but to deliberate whether or not it was reasonable for the complainant to be believed.

¹ [A National Workplace Policy on Sexual Harassment in Trinidad and Tobago \(opm-gca.gov.tt\)](#)

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The investigation formed around two research questions:

1. Did the witness statements corroborate the likely occurrence or not?

Detail your investigation findings that support or contradict the question above

2. Were there any inconsistencies?

Deliberate the evidence provided and note any inconsistencies or evidence to the contrary.

Conclusion:

Based on the evidence and bringing the best practices from the National policy on Sexual harassment in deliberating whether or not it was reasonable for the complainant to be believed take in to account:

- the frequency of the occurrence
- The seriousness and extent of any intimidation and where it was alleged that a threat of physical violence was part of the complaint
- and whether a hostile working environment was created for the complainant.

LEARNINGS

Detail here any learnings from your investigations:

For example: Some of the statements point to cultural norms and the attitudes of the Trinidadian culture and society that would create some degree of subjectivity over what constitutes as sexual harassment and also employees not knowing how to deal with it or feel that they have a responsibility to report it.

RECOMMENDATIONS

Detail here any learnings from your investigations:

Organisational:

For example: Based on the evidence its clear that the organisation has to step up and do more work to create a better/safer workplace culture that will not tolerate Sexual harassment, I believe this can be achieved by:

1. Training all staff (especially managers to recognise and deal effectively with sexual harassment
2. Development and communication of a sexual harassment policy to create awareness of what constitutes sexual harassment and how the company and the employees should treat with it.

Perpetrator:

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For example: believe both parties should be reinstated, or I don't believe any disciplinary action should be taken against any party regarding the sexual harassment allegations.

Victim:

For example: use of any Employee Assistance (EAP) Counselling should be offered

Management:

For Example: Training on the policy and clear guidelines communicated to supervisors about how to investigate a claim of this nature and implications of making any decision that looks like you believe one party over the other

NEXT STEPS

Detail here the next steps – ensuring to follow any policy guidelines and ensuring the best practices of Industrial Relations (IR) guidelines.

For Example: An individual meeting held separately with both parties and a letter indicating the findings and recommendations of the report should be held and issued to them.

An offer of conciliation and resolution meeting with both parties if they are interested – without prejudice if they choose not to.

HR to document a Sexual Harassment policy and schedule companywide training

CONFIDENTIALITY

It is essential the fundamental nature of this investigation remains confidential therefore this report and its entire contents are for the consumption of the Chairman and its board of directors.

The leanings and recommendations should be shared with the supervisors in an official memo.

Any questions queries please don't hesitate to contact any of the HR Investigating team or myself on:.

Printed Name

TITLE

[Email Address](#)

Cell/Phone numbers

Appendix 1 for the copy of the request sent to all parties.

Insert copy of the email sent

Appendix 2 for the interview checklist

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Insert checklist used for ALL interviews

For Example:

Date

Time:

Attendees:

- *who I was*
- *what I do and how I will be investigating the matter*
- *Not a legal investigation*
- *how confidentiality will shall proceed.*

I Prepared interview questions by reviewing statements to verify, question or confirm information:

Question 1.....

Question 1b.....

Question 2.....

Question 3.....

Question 4.....

Question 4b.....

Additional questions emerging from interview:

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